

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GLORIA GEARTY and DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Holtsville, N.Y.

*Docket No. 97-2345; Submitted on the Record;  
Issued May 7, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has greater than a 13 percent permanent impairment of her right upper extremity for which she received a schedule award.

The Board has duly reviewed the record on appeal and finds that this case is not in posture for a determination of whether appellant has greater than a 13 percent permanent impairment of her right upper extremity. Further development of the medical evidence is warranted.

On November 8, 1995 the Office of Workers' Compensation Programs requested that, appellant's attending orthopedic surgeon, Dr. Stephen Jay Satlow, examine appellant and complete a form used to determine the extent of permanent impairment. Dr. Satlow completed the form as requested. He reported that appellant's right upper extremity had retained active flexion of 70 degrees, extension of 15 degrees, external rotation of 20 degrees and full internal rotation. Dr. Satlow added that there was no additional impairment due to sensory deficit, pain or loss of strength. He recommended a 40 percent impairment of the right upper extremity.<sup>1</sup>

The shoulder has three functional units of motion: flexion-extension, internal-external rotation and abduction-adduction.<sup>2</sup> The form submitted by the Office for Dr. Satlow's completion addressed only two of the three. As a result, Dr. Satlow reported no measurements for abduction-adduction, which represents 30 percent of shoulder function.<sup>3</sup> Further development of the medical evidence is, therefore, warranted.

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<sup>1</sup> Dr. Satlow's estimate does not appear to be based on the standard protocol of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (fourth edition 1993).

<sup>2</sup> A.M.A., *Guides* at 41.

<sup>3</sup> *Id.* at 42.

The Board also notes that the Office medical adviser misread the measurements that Dr. Satlow did provide. In a report dated August 7, 1996, the Office medical adviser calculated appellant's permanent impairment based on flexion of 70 degrees, external rotation of 15 degrees and internal rotation of 20 degrees. This is not what Dr. Satlow reported.

Because the Office did not request sufficient clinical findings to fully characterize appellant's impairment in accordance with the standard protocol of the A.M.A., *Guides* and did not accurately read the information, the Board will set aside the Office's schedule award of December 13, 1996 and remand the case for proper development of the medical evidence. After such further development as may be necessary to properly determine the extent of appellant's permanent impairment, the Office shall issue an appropriate final decision.

The December 13, 1996 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further action consistent with this opinion.

Dated, Washington, D.C.  
May 7, 1999

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member